STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED August 24, 2004
v	No. 246538 Saginaw Circuit Court
PATRICK LAWRENCE McCANN, Defendant-Appellant.	LC No. 02-021508-FC

Before: Neff, P.J., and Smolenski and Zahra, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of bank robbery, MCL 750.531. Defendant was sentenced as an habitual offender, fourth offense, MCL 769.12, to life imprisonment. We affirm.

I

Defendant was taken into custody as a suspect in a bank robbery in Midland after his sister told the police that he had admitted robbing the bank. He confessed to the Midland robbery[1] and led the police to evidence located in his mother's house, where he was living at the time. Defendant consented to entry into the home and retrieval of a garbage bag. The garbage bag contained evidence of not only the Midland robbery, but also an earlier robbery of a Chemical Bank in Saginaw Township, including clothing worn by the robber shown in the bank videotape of the robbery. Defendant was subsequently interviewed by an investigator from Saginaw Township, and defendant confessed to the Saginaw bank robbery. The trial court denied defendant's motion to suppress his confession and the evidence retrieved from the garbage bag. Three bank employees testified at the trial and identified defendant as the robber. The videotape of the robbery, and still photographs from the videotape, were admitted as evidence. Defendant was convicted as charged.

[1] Defendant pleaded guilty to the Midland robbery, which is not at issue in this appeal.

II

Defendant challenges his conviction on several grounds. We find no error warranting reversal of his conviction.

A

Defendant argues that the trial court erred in denying his motion to exclude evidence and his motion for a mistrial on the ground that the government failed to disclose evidence related to the issue of identity. We review the trial court's denial of defendant's motion for a mistrial based on a discovery violation for an abuse of discretion. *People v Banks*, 249 Mich App 247, 252; 642 NW2d 351 (2002).

Defendant asserts that the government withheld three important pieces of evidence. A criminal defendant's due process rights to discovery may be implicated if the defendant served a timely request on the prosecution and material evidence favorable to the accused is suppressed, or the defendant made only a general request for exculpatory information or no request and exculpatory evidence is suppressed. *People v Tracey*, 221 Mich App 321, 324; 561 NW2d 133 (1997). Suppression by the prosecution of evidence requested by and favorable to the accused violates due process if the evidence is material to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. *Banks, supra* at 254-255 "Undisclosed evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *People v Lester*, 232 Mich App 262, 282; 591 NW2d 267 (1998). A reasonable probability is a probability sufficient to undermine confidence in the outcome. *Id.*

We find no error requiring reversal. In this case, the evidence at issue was disclosed during trial. Defendant's complaint is therefore not that the evidence was not disclosed, but instead that it was not *timely* disclosed. As discussed below, we cannot conclude that had the evidence been earlier disclosed, there is a reasonable probability that the result of the proceeding would have been different. *Banks, supra* at 255.

1

Defendant first argues that he was denied his right to due process and a fair trial because the audiotape of his confession was "lost," and was not located until the third day of trial, allowing defense counsel only one evening to listen to the tape and prepare for cross-examination.

Although the audiotape of the statement could not be located, a transcript of the tape was provided to the defense before trial. Defense counsel's primary concern with the missing audiotape was that the transcript accurately reflected defendant's statement and did not omit utterances by defendant that could be considered exculpatory, such as requesting an attorney or stating that he did not want to talk to the police. At the outset of the trial, defendant had the opportunity to cross-examine the police department secretary who transcribed the tape concerning her transcription procedures and the accuracy and completeness of the transcript. The secretary testified that she transcribed everything on the tape and had reviewed the transcript

for accuracy. If anything on the tape was not understandable, she would not simply omit that portion of the tape, but instead would type "inaudible."

The tape was located on the third day of trial. After listening to the tape, defense counsel stated on the record that he was satisfied that the tape was accurately transcribed. The temporary loss of the tape did not deny defendant his right to a fair trial.

2

Defendant next argues that the government failed to disclose to the defense that the police had conducted photographic line-ups during the investigation. On the second day of trial, two bank employees disclosed during their testimony that a photo show-up was conducted in this case shortly after the robbery. Defendant moved for a mistrial on the basis of the prosecutor's failure to disclose the photo show-up.

In response to the defense motion, the prosecutor indicated that he had not been aware of the photo show-up. According to an investigating officer, no police report was provided concerning the show-up because none of the three bank witnesses identified anyone in the photo show-up as the bank robber.

The trial court took defendant's motion under advisement and gave the defense the opportunity to establish a record concerning the photo show-up. The Saginaw Township police officers involved with the photo show-up were then recalled as witnesses, and the defense cross-examined them concerning the photo show-up. Following the questioning, defense counsel requested that, at a minimum for a fair trial, the three bank employees be recalled as witnesses to permit further cross-examination by the defense concerning the photo show-up. The court granted the defense request. All three bank employees were recalled as witnesses and defense counsel cross-examined them concerning the show-up in the presence of the jury. The witnesses' testimony corroborated the police testimony that none of the witnesses positively identified anyone in the photo show-up as the robber. According to police testimony, the preliminary suspect in the photo-show-up, who was similar in appearance to the bank robber, was ruled out as a suspect in this case. Defendant was not denied his right to a fair trial by the belated discovery of the photo show-up.

3

Defendant further argues that the prosecutor failed to disclose to the defense that the bank employees had completed "burglary kits" immediately following the robbery. The existence of the kits came to light during the testimony of the bank employees. Defendant asserts that the kits required the employees to describe the robber and therefore were highly relevant to the issue of identity.

We cannot conclude that defendant was denied his right to a fair trial with regard to the belated discovery of the burglary kits. The prosecutor denied any knowledge of the burglary kits and indicated that the kits were not in possession of the police department. The court directed that the bank officials be contacted concerning the missing kits and that they, or a sample kit, be produced.

As with the photo show-up, the bank employees were recalled as witnesses and defendant had the opportunity to cross-examine them concerning the burglary kits and their descriptions of the robber. Moreover, the actual completed kits were located and admitted into evidence. According to the bank manager's testimony, the burglary kits had been given to the bank's auditing department, not the police. The kits were located at Chemical Bank. The jury had the bank employees' burglary kit descriptions of the perpetrator to consider as evidence. Defendant has failed to show that he was prejudiced such that he was denied his right to a fair trial.

4

"When determining the appropriate remedy for discovery violations, the trial court must balance the interests of the courts, the public, and the parties in light of all the relevant circumstances, including the reasons for noncompliance." *Banks, supra* at 252. The trial court appropriately balanced these interests in providing defendant remedies for the missing and undisclosed evidence. Any discovery violation appears to have been inadvertent and was cured during trial. We cannot conclude that the delayed disclosure of the evidence at issue rendered the trial fundamentally unfair. *Id*. at 254-255. The trial court did not abuse its discretion in denying defendant's motion for a mistrial.

B

Defendant also argues that he was denied his right to a fair trial because the trial court permitted evidence of the Midland robbery. Defendant further contends that to the extent that defense counsel stipulated to the admission of the evidence, counsel was ineffective, which requires reversal of defendant's conviction. We disagree.

The defense moved in limine to exclude evidence of defendant's prior convictions, including defendant's recent conviction of the Midland bank robbery. The prosecutor responded that some mention of the Midland robbery would be necessary to explain the discovery of physical evidence in this case. As defendant points out, his trial counsel objected to any mention of the Midland bank robbery, but defendant himself interjected and conceded that the prosecutor could refer to the Midland robbery investigation, but not defendant's conviction. Defendant's agreement to the prosecutor's reference to the Midland robbery extinguished any claim of error with regard to the now challenged evidence. Where the defense affirmatively approves or agrees to a course of action, any error is extinguished, and thus there is no error to review. *People v Riley*, 465 Mich 442, 449; 636 NW2d 514 (2001); *People v Carter*, 462 Mich 206, 215-216; 612 NW2d 144 (2000).

Defendant nonetheless argues that his trial counsel's failure to intercede in defendant's concession constituted ineffective assistance of counsel. To establish ineffective assistance of counsel, a defendant must show (1) that his trial counsel's performance fell below an objective standard of reasonableness, and (2) that the defendant was so prejudiced that he was denied a fair trial, i.e., that there is a reasonable probability that, but for counsel's error, the result of the proceedings would have been different. *People v Toma*, 462 Mich 281, 302-303; 613 NW2d 694 (2000). Effective assistance of counsel is presumed, and the defendant bears a heavy burden of proving otherwise. *Id*. at 302; *People v Rockey*, 237 Mich App 74, 76; 601 NW2d 887 (1999).

Although counsel did not intervene in defendant's decision to permit reference to the Midland robbery investigation, counsel subsequently objected to the prosecutor's line of questioning, during testimony of the Midland police officer, that related to the Midland robbery. Defense counsel's objection led to the court sua sponte addressing MRE 404(b) concerns. After consideration, the trial court permitted only limited reference to the Midland robbery, excluding any reference to defendant's charge or conviction.

Defense counsel also thereafter moved for a mistrial when the investigating officer referred to the Midland robbery during cross-examination. The trial court denied the motion for a mistrial on the ground that the officer's comment was specifically invited by the defense. Further, in response to defendant's concern, the trial court indicated that it had already instructed the jury that it was not to consider other crimes, including the Midland incident, and that it would consider providing a special instruction if requested at the close of proofs. In light of defense counsel's later objection and motion for a mistrial, defendant was not denied the effective assistance of counsel.

C

Defendant next argues that reversal of his conviction is required because the trial court failed to suppress evidence that was improperly seized and failed to suppress defendant's statement to the police. We disagree.

This Court reviews a trial court's findings of fact for clear error. *People v Frohriep*, 247 Mich App 692, 702; 637 NW2d 562 (2001). We review de novo a trial court's ultimate decision on a motion to suppress evidence. *Id*.

1

Defendant contends that although he consented to the search and seizure of evidence related to the Midland bank robbery, he did not consent to the seizure of the evidence related to the Saginaw bank robbery. He argues that the Midland robbery evidence was not encompassed within his consent to search and therefore must be suppressed. We find this contention without merit.

The scope of a person's consent to search is determined under an objective standard; the scope is that which the typical reasonable person would have understood it to be under the circumstances. *Id*. at 703. Defendant led police to a garbage bag located in an upstairs bedroom in his mother's home, indicating that the evidence they wanted was in the bag. The police seized the bag, which contained evidence of both robberies, including various clothing and a drill. Defendant contends that his consent was limited to only the hat, coat, and drill related to the Midland robbery. However, a typical reasonable person would understand defendant's consent to include the contents of the bag.

2

Defendant also contends that his statement to the police was coerced and therefore should have been suppressed. We disagree.

Whether a defendant's statement was knowing, intelligent, and voluntary is a question of law that the court must determine under the totality of the circumstances. *People v Snider*, 239 Mich App 393, 417; 608 NW2d 502 (2000). In determining whether a statement is voluntary, the following factors should be considered, although no single factor is necessarily determinative:

> the age of the accused; his lack of education or his intelligence level; the extent of his previous experience with the police; the repeated and prolonged nature of the questioning; the length of the detention of the accused before he gave the statement in question; the lack of any advice to the accused of his constitutional rights; whether there was an unnecessary delay in bringing him before a magistrate before he gave the confession; whether the accused was injured, intoxicated or drugged, or in ill health when he gave the statement; whether the accused was deprived of food, sleep, or medical attention; whether the accused was physically abused; and whether the suspect was threatened with abuse. [*People v Cipriano*, 431 Mich 315, 334; 429 NW2d 781 (1988).]

The test is whether, considering the totality of the surrounding circumstances, "the confession is 'the product of an essentially free and unconstrained choice by its maker,' or whether the accused's 'will has been overborne and his capacity for self-determination critically impaired ….'" *Id.* at 333-334 (citation omitted).

Defendant essentially contends that the police coerced his statement by threatening to arrest his mother and girlfriend and threatening to tear up his mother's home. He also contends that before his confession he requested, but was denied, counsel. The police officers denied the threats and denied that defendant requested counsel.

Defendant acknowledges that these issues involved matters of credibility, which are generally properly resolved by the trial court. However, defendant urges this Court to resolve credibility in favor of defendant contrary to the trial court. Defendant asserts that the missing audiotape of his statement, the evidence that the tape was turned off at one point during defendant's interview, and the fact that the government failed to disclose the photo show-up evidence all support a conclusion that the government was untruthful in this case.

We find no error in the court's conclusion that defendant's statement was voluntary. The transcript of defendant's statement was admitted as evidence at the suppression hearing. The trial court carefully weighed the testimony and the evidence. The issue whether defendant requested counsel and was threatened by the police were questions of fact that rested on a credibility determination by the trial court. *People v McElhaney*, 215 Mich App 269, 277; 545 NW2d 18 (1996). We find no basis for finding to the contrary.

In finding defendant's statement voluntary, the court considered the totality of the circumstances, including defendant's age, education and intelligence, his prior experience with the police, the length of questioning, the advice of rights, and the lack of delay in bringing defendant before the court, the fact that there was no intoxication, drugging or other ill health and the fact that he was not deprived of food, sleep or medical attention, with the exception of defendant's testimony that he had not slept the night before. The trial court properly considered

the totality of the circumstances and properly concluded on the basis of the circumstances that defendant's statement was voluntary.

Defendant's contention that his counsel was not able to fully and fairly cross-examine the police witnesses without the missing audiotape is without merit. Defendant had the transcript of his statement, which defense counsel later conceded accurately transcribed the audiotape.

D

Defendant next contends that he was denied his right to a presumption of innocence and a fair trial because he was marched past the open jury room wearing his jail uniform, handcuffs and shackles. We disagree.

Defendant acknowledges that throughout the trial he was wearing civilian clothes. However, because of confusion between the sheriff's deputies and the court, during a lunch break on the last day of trial, after the conclusion of the proofs, he was led past the jury room in chains. After the jury returned its verdict and was excused, defense counsel simply noted for the record that defendant informed counsel that he been led past the jury room in chains and the door was open. According to the attending deputy, at the time they decided to transfer defendant, the jury door was closed, but after retrieving his coat and placing defendant in restraints, they walked him past the jury room and the door was open because lunch had just been sent in and the jurors were being served food.

As defendant notes on appeal, when the court asked counsel what his request was, counsel indicated that defendant just wanted to place the event on the record. Counsel placed no facts on the record that support a conclusion that defendant was prejudiced by this incident. There is no indication that any juror saw defendant being led past the room. We find no error requiring reversal.

Defendant further argues, that to the extent this issue is waived because counsel failed to request a mistrial or an instruction, counsel provided ineffective assistance. Because defendant did not raise this issue in an appropriate motion in the trial court pursuant to *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973), our review is limited to errors apparent on the record, *People v Williams*, 223 Mich App 409, 414; 566 NW2d 649 (1997). In relating the incident to the trial court, counsel merely indicated that he was placing the incident on the record, and expressed no basis for a finding that the incident affected defendant's right to a fair trial. Absent any factual support to conclude that defendant was prejudiced by the incident, no mistake of counsel is apparent from the record. *Id*.

E

Defendant next argues that the trial court erred in denying his motion to dismiss based on a violation of the 180-day rule. We disagree.

When a prosecutor fails to make a good faith effort to bring a defendant's criminal charge to trial within 180 days of the time the prosecutor knows that the defendant is incarcerated in a state prison, the defendant is entitled to have the charge dismissed with prejudice. MCR. 6.004(D)(2), *People v Chavies*, 234 Mich App 274, 278; 593 NW2d 655 (1999); *People v*

Taylor, 199 Mich App 549, 552; 502 NW2d 348 (1993). The 180-day rule does not require that trial commence within 180 days. Rather, if apparent good-faith action is taken well within that period, and the prosecutor proceeds promptly toward readying the case for trial, the rule is satisfied. MCR 6.004(D), *People v Bradshaw*, 163 Mich App 500, 505; 415 NW2d 259 (1987). Jurisdiction over the case will not be lost unless the initial action is followed by an inexcusable delay that evidences an intent not to bring the case to trial promptly. *Id.* A trial court's attribution of delay is reviewed for clear error. *People v Crawford*, 232 Mich App 608, 612; 591 NW2d 669 (1998).

Defendant sought dismissal on the ground that 193 days had elapsed from the date of sentencing for the Midland robbery, May 24, 2002, to the date of trial in this case, December 3, 2002. The trial court denied the motion, finding no violation of the 180-day rule. The court calculated the period to be 183 days, because it began to run on June 3, 2002, the first date that the prosecutor had notice that defendant was incarcerated in the state prison. Nonetheless, the court found no violation of the 180-day rule because the prosecution had made a good faith effort to bring defendant to trial, and further, the delay in trial for the appointment of new defense counsel on September 24, 2002, was not attributable to the prosecutor.

Defendant contends that no delay attributable to defendant occurred in September 2002 because counsel himself moved to withdraw and defendant merely agreed, and, if anything, this change expedited trial. We find no clear error in the trial court's attribution of delay for the appointment of new defense counsel. Trial was set for September 24, 2002. The record indicates that on that date, defense counsel moved to withdraw because defendant was dissatisfied with counsel's representation. The trial court granted the motion to withdraw and the trial was postponed.

In any event, we find no error in the trial court's conclusion that the prosecution made a good faith effort to bring defendant to trial during the period at issue. The court reviewed the record of defendant's case from the date charges were filed, noting that various delays occurred with regard to the preliminary examination and arraignment. Arraignment in circuit court was scheduled for June 3, 2002 and a writ was prepared and sent to Midland County. According to the record, it was only when defendant did not appear on June 3, 2002, that the prosecutor learned that defendant was no longer in Midland County, having pleaded guilty to the Midland charge and been sentenced in late May 2002.[2] Arraignment was rescheduled for June 17, 2002, however, the sheriff's department failed to deliver a writ of habeas corpus issued for defendant,

[2] In response to the court's inquiry, the prosecutor indicated that his office was unaware that defendant had entered a guilty plea in the Midland case, and that he only knew that defendant had been charged in Midland County and was incarcerated the Midland County jail. Contrary to defendant's assertions on appeal, the record does not support a conclusion that the prosecutor had actual knowledge that defendant was incarcerated in a state prison, thus, commencing the 180-day period before June 3, 2002. *Taylor, supra* at 552. Further, MCL 780.131 applies the 180-day rule only to defendants serving in a state penal institution, not to individuals awaiting trial in county jail. *People v McLaughlin*, 258 Mich App 635, 643; 672 NW2d 860 (2003).

and arraignment was rescheduled for July 1, 2002. The trial court's findings and conclusion are supported by the record.

F

Defendant finally claims that the cumulative effect of the individual errors prejudiced him to such an extent that even if the evidence of guilt was overwhelming, he was denied a fair trial. On the basis of our above conclusions with regard to the individual claims of error, we find no basis for reversal of his conviction on a claim of the cumulative effect of individual errors.

III

Defendant also challenges his sentence, alleging errors in the scoring of four offense variables and arguing that the court abused its discretion in departing from the guidelines and imposing a life sentence. We do not address the claims of scoring errors because we uphold the trial court's departure from the guidelines range, and conclude that the alleged errors in scoring are therefore harmless. An erroneous scoring of the guidelines range does not require resentencing if the trial court would have imposed the same sentence regardless of the error. *People v Mutchie*, 468 Mich 50, 51-52; 658 NW2d 154 (2003).

According to the trial court's scoring under the guidelines, the minimum sentencing guidelines range was 58 to 228 months.[3] The trial court departed from the guidelines and sentenced defendant to life imprisonment, with a recommendation of no parole.[4]

A

A court may depart from the sentencing guidelines range if it has a substantial and compelling reason to do so, and it states on the record the reason for departure. MCL 769.34(3), *People v Babcock*, 469 Mich 247, 256, 272; 666 NW2d 231(2003). Factors meriting departure must be objective and verifiable, must keenly attract the court's attention, and must be of considerable worth. *Id.* at 257-258. To be objective and verifiable, the factors must be actions or occurrences external to the mind and must be capable of being confirmed. *People v Abramski*, 257 Mich App 71, 74; 665 NW2d 501 (2003).

The standard of review for sentences outside the guidelines is multi-faceted. *Babcock, supra* at 264-265. This Court must review the sentence to determine whether the particular departure was based on a substantial and compelling reason as articulated by the trial court. *Id*.

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[3] Defendant argues that absent the error in the scoring of offense variables 1, 2, 9, and 13, the recommended sentencing would be 29 to 114 months, and if the offense variables were scored as presented by the probation department, the recommended range would be 50 to 200 months.

[4] The parties do not dispute that the life sentence is a departure. See *People v Houston*, 261 Mich App 463, 474-475; ___ NW2d ___ (2004) (where the upper range of the guidelines is 270 months, a life sentence is a departure, but where it is 300 or more, a life sentence is an appropriate alternative sentence within the guidelines recommendation).

at 258-259, 272-273. The existence of a particular factor is a factual determination for the sentencing court to determine, subject to review for clear error. *Id*. at 264. The determination that a factor is objective and verifiable is reviewed as a matter of law. *Id*. The determination that a factor constituted a substantial and compelling reason for departure is reviewed for an abuse of discretion. *Id*. at 264-265. Likewise, the amount of the departure is reviewed for an abuse of discretion. *Abramski, supra* at 74.

An abuse of discretion exists when the sentence imposed is not within the range of principled outcomes. *Babcock, supra* at 269. In ascertaining whether the departure was proper, this Court must defer to the trial court's direct knowledge of the facts and familiarity with the offender. *Id*. at 270.

B

The factors cited by the trial court in departing from the guidelines range were defendant's "prior record, prior failure of this gentleman, and failing to show any remorse at all for what he has done, involved in these crimes."

Defendant argues that remorse, or the lack thereof, is not an objective factor. We agree that remorse is not objective and verifiable and therefore is not a substantial and compelling reason for a departure from the guidelines. *People v Daniel*, 462 Mich 1, 8; 609 NW2d 557 (2000).

Defendant also argues that his prior record is not a valid reason to depart because it is already accounted for in the guidelines. A court may not base a departure on an offense characteristic or offender characteristic already taken into account unless the court finds, based on the facts in the record, that the characteristic was given inadequate or disproportionate weight. MCL 769.34(3)(b), *People v Hendrick*, 261 Mich App 673, 682; ___ NW2d ___ (2004).

Given defendant's extensive and lengthy criminal history dating back to convictions of two counts of arson and a related voluntary manslaughter conviction in Virginia in 1979, it is not clear from the record that defendant's prior record is adequately accounted for in the prior record variables. The court noted that defendant had eight prior felony convictions and at the time of trial, defendant had pleaded guilty as a fourth habitual offender to unarmed robbery and assault with intent to rob while armed. The court further noted that in addition to the bank robberies, defendant had a history of a larceny in a building, a felonious assault, and was convicted of voluntary manslaughter in an arson case in Virginia, in which a fireman lost his life.

Given the nature and extent of defendant's prior record, it may not be adequately accounted for under the prior record variables. However, the trial court did not state that the prior record variables failed to give adequate weight to defendant's prior record, and the record is insufficient to support the trial court's reliance on this factor for the departure.

Nonetheless, given the trial court's extensive discussion of defendant and his conduct in imposing sentence, we find that the departure is not without support. The court considered proportionality and other factors, including the facts of the trial, the sentencing evaluation and plan, and the agent's description of the offense. In particular, the court noted that defendant had exhibited an obstructive and uncooperative attitude to the point that during the presentence

interview, he refused to give certain information relevant to supervision and did not discuss his involvement in this offense. Defendant's obstructionist conduct and his refusal to cooperate with authorities is objective and verifiable and is a substantial and compelling reason for departure.

We also conclude that the trial court would have departed, and would have departed to the same degree, had the court not relied on the improper factors. *Babcock, supra* at 260. In addition to the above observations, the court noted that the presentence report indicated that defendant was not a candidate for community supervision. The court opined that defendant exhibited an absence of redeeming social values to the community and other citizens. The court's explication of the basis for the sentence makes it clear that the court would have imposed the same sentence even without reliance on defendant's lack of remorse and the prior convictions.

Finally, we reject defendant's argument that the court imposed a sentence that is disproportionate. Given defendant's extensive and serious criminal history, the repeated commission of bank robberies, and his disregard for the endangerment of the victims and the community in committing this offense, we conclude that the trial's court's departure from the guidelines does not render the sentence disproportionate to the seriousness of the defendant's conduct and his criminal history. *Id.* at 264. We find no abuse of discretion in the sentence departure.

Affirmed.

/s/ Janet T. Neff
/s/ Michael R. Smolenski
/s/ Brian K. Zahra